

## **SELECTMEN'S MEETING MINUTES**

### **November 22, 2011**

Members Present: Larry Harrington, Chairman  
James J. DeVellis, Vice Chairman  
Mark Sullivan, Clerk  
Lorraine Brue  
Lynda Walsh

Others Present: Kevin Paicos, Town Manager  
Debbie Giardino, Director of Recreation  
Keith Birch, Invensys, VP Operations  
Robert Zahara, Manager, Red Robin Restaurant  
Steven Tang, Manager, Piccadilly Pub  
Sergeant Richard Noonan  
Police Chief Edward O'Leary  
Town Counsel, Attorney Louis Cassis  
Ethan Coakley, Police Operative  
Randy Scollins, Finance Director  
Hennelore Simonds, Chief Assessor  
Sharon Wason, Town Planner  
Bill Gaine, MIAA

The meeting was brought to order at 7:00 p.m. by Larry Harrington, Chairman of the Board of Selectmen.

**7:00 – Citizens Input** – Debbie Giardino, Director of the Board of Recreation was present to publicly thank Invensys and Sodexo and volunteers who helped make the 2011 *Spirit Week Charity Drive* – Giving the Gift of Time a huge success. Debbie gave a brief background on the Foxboro Company and told how Invensys & Sodexo have continued giving back to the Community. Keith Birch, Invensys, described how he looked for 10 community groups in Foxborough that needed work done at no charge. He said 100 volunteers gave of their time and talents. The result was “A Community Day of Caring” and with many volunteers many things were accomplished among them trail work at Gilbert State Forrest, Kersey Point Park maintenance, painting in the Recreation office, installation of steel railings at the Senior Center and many other jobs. Many of these jobs would never have been done if not for the gifts of time and labor from Invensys and Sodexo.

#### **ACTION:**

**Holiday Banners – Jaycees** – Monica Rigamonti, Foxboro Jaycees, came before the Board to request permission to hang holiday banners from the 5

steel lamp posts around the Foxborough Common. She said she had spoken to Bob Swanson, Highway Superintendent, who said he would hang them free of charge if approved by the Board. She also has spoken to the Chief of Police and the Fire Chief who are okay with this idea. A brief discussion ensued. Monica said the Jaycees are trying to add something to the Common by hanging these banners.

Motion by Lynda Walsh to approve the request by the Foxboro Jaycees to hang holiday banners on five street lamp posts around the Common. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Citizens Input (cont'd)** – Debbie Steward, 44 Neponset Heights Ave., asked if there had been any action by National Grid on clean-up after the storm. Kevin Paicos responded saying “No” and that he had had a conversation with Marcie via voice and Email reminding her that the National Grid spokesperson had said there was no reason why they could not undertake tree cutting in the next two weeks. He and Larry Harrington together will write a letter regarding tree cutting as promised and whether they are going to honor that commitment. The letter becomes official testimony on Hurricane Irene if no action is received from the petition. Kevin said he had been in this type of situation many times before and has never seen anything come from investor utilities. He said rather than rely on them, the Town would do all the right things. He will be making proposals in the budget but said there is a limit to what the Town can do by itself. Larry Harrington said he wants to keep the pressure on the State and the DPU. He also referred to a video that is being made; he wants to make sure people get a copy; he is going to continue to put pressure on to get something done.

**ACTION ITEMS (cont'd) - Change of Manager for Red Robin Restaurant** – Received from Red Robin International, Inc. an application for Change of Manager from Cynthia Lyons to Robert Zahara. Jim DeVellis pointed out that this Restaurant does not cater to people who are just coming in for the bar. He explained to Mr. Zahara that the BOS has little tolerance for violations of the liquor license. Mr. Zahara gave a brief history of his background and qualifications as Manager of a Restaurant/Bar. He pointed out that he is TIPS certified and he is training others for certification.

Motion by Mark Sullivan to approve the application for a Change of Manager as submitted by Red Robin International, Inc. This approval is contingent upon results of a CORI check. Seconded by Lynda Walsh.

**Vote: 5-0-0**

**Liquor License Extended Hours** – Received from Thomas J. Perruna on behalf of Tavolino a request for an extension of liquor license hours to permit serving alcoholic beverages, accompanied by food service beginning at 11:00 a.m. on Sundays during the Gillette Stadium football season. A brief discussion was held.

Motion by Mark Sullivan to approve the request for extension of hours to 11:00 a.m. on Patriots Sunday Home Games starting at 1:00 p.m. including the play off season. Seconded by Lynda Walsh. **Vote: 5-0-0**

**Agricultural Commission Appointment** – Received a request to appoint Frederick F. Grossmith to the Agricultural Commission for a three year term.

Motion by Mark Sullivan to appoint Frederick F. Grossmith to the Agricultural Commission for a three year period ending in 12/14/14. Seconded by Lynda Walsh. **Vote: 5-0-0**

**7:30 – Public Hearing – The Piccadilly Pub** - Jim DeVillis recused himself from this discussion. Mark Sullivan, Clerk, read the Public Hearing Notice. The purpose of this Public Hearing is to review and discuss information concerning alleged violations of Chapter 138 that occurred at Piccadilly Pub Restaurant, Foxborough, MA.

Sergeant Richard Noonan was sworn in. Chief O’Leary explained that on September 29<sup>th</sup> Sergeant Noonan supervised an alcohol compliance check on liquor licensees in Foxborough. One violation occurred at Piccadilly Pub where the undercover 19 year old male, Ethan Coakley, was served an alcoholic beverage. Steven Tang, Bar Manager, said the bar tender did serve the underage male who should have been carded. He said the bar tender is a long time employee. He explained that he had many meetings with staff since that date. He instructed them that anyone who appears to be under 35 years of age is to be carded and if there are any questions they are to pass it along to the manager. Attorney Louis Cassis questioned Sergeant Noonan. He answered all questions in detail. Attorney Cassis said that Mr. Tang has been very cooperative and would be agreeable to a day’s suspension and fine and all attorney’s fees.

A general discussion ensued. Lynda Walsh said it was good to hear what steps have been taken since the happening. Lorraine Brue agreed with Lynda and that the Manager acted quickly which demonstrates positive efforts to be compliant. She asked if Mr. Tang had seen some of the new scanning equipment that can detect phony licenses. This gives the staff the opportunity to ask for back up identification. Larry Harrington expressed concern about a four year employee suspended for only thirty days without pay. He is disappointed that the bar tender felt it necessary to lie knowing she made a mistake. Mark Sullivan said he would look to Chief O’Leary; he asked if this is the first offense. Chief O’Leary said in the last ten years he never had the Piccadilly Pub in for a hearing.

Motion by Mark Sullivan to close the Public Hearing. Seconded by Lynda Walsh. **Vote: 4-0-0**

Motion by Lorraine Brue that the Board of Selectmen find as fact that during an alcohol compliance check performed the Piccadilly Pub did not indicate compliance. Seconded by Lynda Walsh. **Vote: 4-0-0**

Larry Harrington noted that through the Attorney, Steven Tang had made an offer to accept a one-day suspension to be held for one year and to pay for legal fees.

Motion by Lynda Walsh to accept the offer as stated by Attorney Cassis on behalf of Piccadilly Pub. Seconded by Lorraine Brue.

A brief discussion was held regarding the guidelines for first offense.

**Vote: 4-0-0**

**8:15 – Public Hearing – Tax Classification Hearing** – The Public Hearing notice was read by Mark Sullivan, Clerk. A brief discussion was held. Randy Scollins explained converting to quarterly tax billing has changed the timing of getting certification of property values. He explained that the BOS would have to meet next week to see valuations and to make a recommendation on whether or not to classify. If tax bills go out late it means a significant loss of revenue for the Town.

Motion by Lorraine Brue to continue this Public Hearing until the next meeting. Seconded by Mark Sullivan. **Vote: 5-0-0**

**8:45 – STM Articles 6, 7** – Kevin Paicos explained that these two Articles relate to electronic billboards in the Route 1 area and has everything to do with the pending RFP for billboards on Route 1. Sharon Wason, Town Planner and Bill Casbarra were present to answer any questions by the Board. Bill Casbarra explained that this is a change in the General By-Laws that will allow electronic signs on Town owned or Town controlled property. Kevin Paicos noted that this is a very focused change that gives permission for one or two of the signs on the existing billboards to be made electronic. Foxborough will be the first in the State to have this kind of sign. Kevin Paicos explained that if this does not pass, the Town would miss the opportunity to issue an RFP as well as the electronic advertisement on the bill boards. The present advertising contract expires in April, 2012. He said this would cause the Town to lose a serious amount in advertising revenue. Sharon Wason read from a prepared statement on how Article 6 and 7 would impact the Town. She explained that the Board of Appeals would be the authority to grant permits for electronic signs. She feels that if the Town has control over signage, it should also make sure that any messages would be appropriate in content. Sharon pointed out that some of the criteria in Article 6 are taken directly from the Outdoor Advertising Board regulations.

Lorraine Brue pointed out that the Advisory Committee spoke against this Article because the final State regulations are not complete and how can a by-law be drafted without knowing what the State regulations are going to be.

Lorraine said according to a statement by Mike Stanton at the Advisory Committee meeting, the Route 1 Businessmen's Association feels that the Town is jumping the gun on this. Kevin Paicos said if the Town waits to get regulations out it would be two months to write a new by-law plus approval by Town Meeting. There would be several months' revenue that would be lost and that is revenue that would allow Foxborough to participate in the Regional Municipal Sewer Agreement. He said this would have a cascading effect; but he cannot tell for certain if this Article does not pass that the Town could lose \$100,000 in revenue. Lorraine Brue pointed out that this Article has limited scope – Town owned or Town controlled land. She asked what the disadvantage would be if this was applicable to S1 or the entire businesses on Route 1 and others. Kevin Paicos said he could not bring forward a recommendation that the Town should have electronic signs all along Route 1. The Town is not ready to make this decision, reserving the idea to broaden it in the future. It was pointed out that these signs are free standing, not allowed on structures. Kevin Paicos noted that probably only two or three signs would become electronic. Bill Casbarra explained that the electronic sign in front of the McDonalds was part of a PILOT program by the State and a special permit was issued. Further discussion involved questions regarding electronic signs and whether the message could change, the frequency, and could these signs be put on the water tower, etc. Bill Casbarra explained that these are free standing billboards; the same as what is there now.

Motion by Lynda Walsh to support Article 6. Seconded by Mark Sullivan.

Further discussion was held on possible broadening the area to allow signs anywhere along Route 1 and the fact that Foxborough would be the first town to have these electronic signs. Bill Casbarra noted that he had attended an Advisory Committee meeting and could not answer many of the questions put to him regarding regulation of size, placement/spacing, changes of illuminated messages and the content thereof. Bob Garber said the Ad Com had voted 0-8-1 on this article. Larry Thomas explained the reasons for this vote are the esthetic issues and the Committee felt this could wait. Bob Garber pointed out the Committee expressed concerns that these signs could devalue the other signs on Route 1. Lynda Walsh felt it is important to open this up to all the businesses in that area and not just have these two signs. Bill Casbarra said they are in the process of revisiting the By-Law and are trying to make things equitable along the Route 1 corridor. **Vote: 5-0-0**

**Article 7 – Amend Zoning By-Laws – Solar Energy** – Kevin Paicos said this Article would establish photovoltaic panels on the land fill property. He feels that in order to move forward with the installation, it is necessary to find out whether the community is in favor of this or not. Sharon Wason pointed out that this is a By-Law change to allow installation of ground mounted panels. She noted that the Town has become conscious of becoming a “Green Community” and if the Town desires to go in that direction the zoning would all ready be in place.

Motion by Jim DeVellis to approve Article 7 as presented. Seconded by Lorraine Brue. **Vote: 5-0-0**

Kevin Paicos thanked Bill Casbarra and Sharon Wason and all who worked on this very complicated issue, it was a tremendous amount of hard work.

**9:00 – MIAA Fee Waiver Request** – Kevin Paicos explained that for the past four years the Board has granted a waiver of the Town's portion of ticket fees for the High School Super Bowls Games at the Stadium. He has met with the Patriots to discuss this issue. The Patriots' information is proprietary and protected and cannot be disclosed.

A lengthy discussion ensued. Bill Gaine, MIAA Director, thanked the Town for its "gesture of gratitude" in waiving the fee in the past. He gave some statistics noting that there are 375 member schools, some are private schools. This is a High School tournament including 34 different sports and is a State wide competition. He pointed out that this requires a significant amount of money; there are many variables with respect to tournament revenue. He said MIAA is trying to provide expansion into girls' sports. It is important that girls have the same quality tournament experience as the boys. Bill Gaine gave the example of ice hockey where MIAA takes the teams into Boston to provide the best facility available. He said it is proving to be difficult in these bad economic times. He said MIAA is most interested in participation because that leads to producing better citizens and develops leadership qualities.

Lynda Walsh pointed out that the Town has supported this for four years but there may be a legal question as to whether the Town can waive the fees. Kevin Paicos clarified his position on this, he is not proposing that the Board decide to do this; it would be up to the taxpayers. Lorraine Brue referred to a report given to the members of the Board and she wanted to be sure she was reading the information correctly. She pointed out that on page 3, total revenue of \$2.838M. Bill Gaine pointed out that the entire educational program is supported by tournament revenue. He said there are some State grants included. He said \$3-1/4M is directly related to expenses. Lorraine pointed out this a valuable program. She said the waiver is with the Kraft Organization because they are obligated to pay the Town a certain amount; that means significant revenue for the Town. She also pointed out that there is significant cost by the MIAA that also needs to be considered. Further comments were made relative to ticket price, the benefits to the youth across the whole state and the benefits of playing at a NFL field.

Motion by Mark Sullivan to approve the waiver of ticket fees for the MIAA High School Super Bowl games at Gillette Stadium. Seconded by Lynda Walsh.

Discussion – Randy Scollins, Finance Director, pointed out that the revenue here is \$45,000 and with approval this would be agreeing to not collect \$45,000 in revenue which is the taxpayers' money. He pointed out that the Stadium pays in lieu of taxes a certain flat fee per ticket. Therefore the Town's ability to realize an increase in revenue does not grow. The only way the Town's revenue from the Stadium can grow is if the Stadium holds additional events then the Town's revenue is based on volume. He said the revenue from the Stadium has been flat. Mark Sullivan pointed out that this is not about money for the Town; it's about "kids' memories". He said "you can't put a dollar value of this".

It was pointed out that this is a singular request from MIAA that no other community is asked to waive this fee. Kevin Paicos said he does not know how one week he talked about a \$723,000 deficit and the next agree to a waiver of fees amounting to \$45,000. Paul Carroll said he has been involved with MIAA in one way or another for some time and he does understand what MIAA does for these kids. He does not see that \$45,000 is going to make a difference for the Town but would make a difference to the kids involved. He urged the Town to waive the ticket fee. Lorraine Brue said even if the Kraft Organization takes a loss, that is not a reason to give up tax revenue. She said confidential information indicates that they do not operate at a loss for this event. She said she could not support the waiver because of the financial situation the Town is in. She said this is just the beginning of these types of decisions that the Board will have to make to make sure they are doing what is right for Foxborough.

**Vote: 4-1-0** Lorraine Brue opposed

Randy Scollins recommended that the Board postpone the Classification hearing until December 6, 2011.

Motion by Lynda Walsh to reconsider the motion on the Classification Hearing postponement and to amend that motion to schedule that Public Hearing for December 6, 2011. Seconded by Jim DeVellis. **Vote: 5-0-0**

Motion by Lynda Walsh to approve STM Warrant Article 1, Items 1, 3, 4 and 5. Seconded by Lorraine Brue. **Vote: 5-0-0**

Motion by Lynda Walsh to approve STM Warrant Article 2 – Highway Contract. Seconded by Mark Sullivan. **Vote: 5-0-0**

**Article 3 – Town Hall** – Kevin Paicos said he would withdraw this Article. He said he could not in good conscience move forward with this without a solid financial plan. He pointed out that the surplus on the High School is still a moving target. Research is still going on in regard to sale of property and without those two things, Kevin said he would ask for a "No Action" vote. Jim DeVellis asked for an explanation of the difference between "No Action" and withdrawal of an article.

Motion by Lorraine Brue to support a “No Action” vote on STM Article 3 as written. Seconded by Lynda Walsh. **Vote: 5-0-0**

**Article 4 – Wage Classification Study** – Larry Harrington pointed out that when this was discussed before this was to be a “place holder”. He said he “hoped” that the Board would not be expected to put a place holder on the Warrant in the future. Kevin Paicos said this was “unprecedented in public service”. He said no one could pull this together. The public piece has to be conducted at Town Meeting. Larry Harrington pointed out that the Wage Classification Study is many months old and most companies can do a wage study faster than in five months. He suggested not putting questionable articles on the Warrant and that those items should be addressed at the ATM so that so many articles would not have to be withdrawn.

Motion by Jim DeVellis to vote “No Action” on STM Warrant Article 4 as written. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Article 5 – Easement** - A brief discussion was held.

Motion by Jim DeVellis to approve Article 5 as written. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Article 8 – General By-Laws Changes** – Motion by Jim DeVellis to approve Article 8 as written. Seconded by Mark Sullivan. **Vote: 5-0-0**

**Article 9 – Special Act** – Motion by Jim DeVellis to support Article 9, Special Act, as written. Seconded by Mark Sullivan.  
**Vote: 4-1-0** Lorraine Brue opposed.

**Article 10 – Home Rule Petition: Public Endangerment Act** – Motion by Jim DeVellis to approve Article 10 as written. Seconded by Mark Sullivan.  
**Vote: 5-0-0**

Kevin Paicos gave a brief update on the DPW Director interviews. He reported that it has come down to one candidate. He is set to offer the position to the candidate if the references come in fine.

The Human Resources Director – Kevin Paicos said he is going to try to find an “interim” director and in the meantime he is going to give the intern more hours. It will be another three month process. Larry Harrington asked if there would be a compensation issue with people looking for more than the Town is offering. Kevin said this time around he is going to advertise at full range and he is not sure that would help. He said the issue here is the Personnel By-Law.

Kevin Paicos said the Town Counsel RFP is drafted. He asked the Board about what kind of Town Counsel they want as well as what kind of screening



committee. He expects to receive five or six proposals and the screening committee would narrow the field. Larry Harrington suggested putting this subject on the agenda for Dec. 6<sup>th</sup>. Lorraine Brue brought up the issue of the "Retainer". She noted that the number of hours being charged to regular business, the Town is paying more than when paying the retainer. Kevin said he was thinking of asking Paul DeRensis to go back on the retainer. Larry Harrington suggested a meeting within the next two weeks between Kevin Paicos and Attorney DeRensis to discuss the billing process and to then come back to the Board on Dec. 6<sup>th</sup>. A few brief comments were made regarding goals and objectives. Larry Harrington pointed out that the Town Manager could not be expected to do everything on a list of 40 goals and objectives. He noted that there is a lot of activity with W&S. He supports the HR position to take some of the responsibilities from the Town Manager.

**9:45 – Open Meeting Law** – Larry Harrington asked to schedule a date for another training session on the Open Meeting Law. Kevin Paicos said he would check with Town Clerk, Bob Cutler.

**Discussion** – Larry Harrington noted that the Attorney General put out a memo on the process for remote participation to allow full participation for members of "public bodies". He brought this to the attention of the Board for consideration. Jim DeVellis reminded the Board that this would include all boards and committees. Mark Sullivan said he would like to hear from other boards what their position on this would be. Larry Harrington suggested putting this on the agenda for a future meeting.

Motion by Mark Sullivan to adjourn. Seconded by Jim DeVellis.

**Vote: 5-0-0**

Meeting adjourned at 10:15 p.m.

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Mark Sullivan, Clerk